

Christopher R. Rodriguez (SBN 212274)
Andrew D. Bluth (SBN 232387)
SINGLETON SCHREIBER, LLP
1414 K Street, Suite 470
Sacramento, California 95814
Tel: (619) 333-7479
crodriguez@singletonschreiber.com
abluth@singletonschreiber.com
Attorneys for Plaintiffs

Robyn E. Bladow (SBN 205189)
KIRKLAND & ELLIS LLP
555 S. Flower Street
Los Angeles, CA 90071
Tel: (213) 680-8400
robyn.bladow@kirkland.com

*Attorneys for GlaxoSmithKline
Consumer Healthcare Holdings (US) LLC*

(additional counsel on signature page)

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

KENNETH LEVI PACK, an individual, on)
behalf of himself and all others similarly)
situated; MIN JI JUNG, an individual, on behalf)
of herself and all others similarly situated,)

Plaintiffs,
vs.

Johnson & Johnson Consumer Companies, Inc.,)
a New Jersey corporation; GlaxoSmithKline)
LLC, a Delaware corporation; Reckitt Benckiser)
LLC, a Delaware corporation; Bayer Healthcare)
LLC, a Delaware limited liability corporation;)
Sanofi- Aventis U.S. LLC, a Delaware limited)
liability corporation; The Procter & Gamble)
Company, an Ohio corporation; Church &)
Dwight Co., Inc., a Delaware corporation;)
Walmart Inc., a Delaware corporation; Target)
Corporation, a Minnesota corporation; CVS)
Pharmacy, Inc., a Delaware corporation;)
Walgreen Co., an Illinois corporation;)
Albertsons Companies Inc., a Delaware)
corporation; Rite Aid Corporation, a Delaware)
corporation; Amazon.com, Inc., a Delaware)
corporation; and DOES 1-20,)

Defendants.

Case No. 2:23-cv-01965-AC

**STIPULATION AND [PROPOSED]
ORDER TO SUBSTITUTE PARTY
NAME, AMEND CAPTION, AND TO
ENLARGE TIME FOR RESPONSIVE
PLEADINGS PENDING MDL
DETERMINATION**

Judge: Hon. Allison Claire
Courtroom: 26

1 **WHEREAS**, Plaintiffs Kenneth Levi Pack and Min Ji Jung (“Plaintiffs”) filed the above-
2 captioned action against Defendants Johnson & Johnson Consumer Companies, Inc.,
3 GlaxoSmithKline LLC, Reckitt Benckiser LLC, Bayer Healthcare LLC, Sanofi- Aventis U.S. LLC,
4 The Procter & Gamble Company, Church & Dwight Co., Inc., Walmart Inc., Target Corporation, CVS
5 Pharmacy, Inc., Walgreen Co., Albertsons Companies Inc., Rite Aid Corporation, Amazon.com, Inc.,
6 and Does 1-20 (“Defendants”) on September 12, 2023 (the “Complaint”),

7 **WHEREAS**, GlaxoSmithKline LLC was incorrectly named as a defendant in this action;

8 **WHEREAS**, GlaxoSmithKline Consumer Healthcare Holdings (US) LLC now d/b/a Haleon
9 (“GSK Consumer Healthcare”) is the proper defendant regarding certain products alleged in the
10 Complaint;

11 **WHEREAS**, Johnson & Johnson Consumer Companies, Inc was incorrectly named as a
12 defendant in this action;

13 **WHEREAS**, Johnson & Johnson Consumer Inc. is the proper defendant regarding certain
14 products alleged in the Complaint;

15 **WHEREAS**, Reckitt Benckiser LLC was incorrectly named as a defendant in this action;

16 **WHEREAS**, RB Health (US) LLC is the proper defendant regarding certain products alleged
17 in the Complaint;

18 **WHEREAS**, a petition has been filed before the Judicial Panel on Multidistrict Litigation (the
19 “JPML”) to consolidate this case with other civil actions now pending inside and outside of this
20 District into a single multidistrict litigation (the “MDL Petition”);

21 **WHEREAS**, the MDL Petition has identified at least thirteen actions it seeks to consolidate in
22 MDL No. 3089, and at least twenty-seven additional actions are pending across the country that may
23 also be deemed related actions (together with any other actions that are the subject of the MDL
24 Petition, the “Related Actions”);

25 **WHEREAS**, the MDL Petition has been docketed before the JPML as *In re: Oral*
26 *Phenylephrine Litigation*, MDL No. 3089, responses to the MDL Petition are due on or before October
27 11, 2023, with a reply due on or before October 18, 2023;

WHEREAS, this Court has the inherent power to grant a stay, or to enlarge deadlines, especially in circumstances such as here, where doing so would promote judicial economy and avoid prejudice to the parties, *see, e.g., Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936); *Sprint Commc'ns Co. L.P. v. Pac. Bell Tel. Co.*, 2014 WL 7239474, at *2 (E.D. Cal. Dec. 16, 2014) (staying action pending JPML decision); *JBR, Inc. v. Keurig Green Mountain, Inc.*, 2014 WL 1767701, at *3 (E.D. Cal. May 2, 2014) (same);

WHEREAS, absent relief from currently pending deadlines, the Court and the parties would face responsive pleading deadlines and, in light of the possibility that there will be an MDL consolidating the Related Actions for the purpose of pretrial proceedings, an extension of those deadlines is prudent to avoid duplication of pretrial efforts by the parties, any waste of judicial resources, and the risk of conflicting rulings;

WHEREAS the parties have met and conferred and agree that responsive pleading deadlines should be stayed pending resolution of the MDL Petition;

**THEREFORE, THE PARTIES HEREBY STIPULATE, AGREE AND
RESPECTFULLY REQUEST THAT:**

1. Defendant “GlaxoSmithKline LLC” is dismissed without prejudice and will be replaced by defendant “GlaxoSmithKline Consumer Healthcare Holdings (US) LLC” and the caption in this action shall be amended to reflect that substitution;
2. Defendant “Johnson & Johnson Consumer Companies, Inc.” is dismissed without prejudice and will be replaced by defendant “Johnson & Johnson Consumer Inc.” and the caption in this action shall be amended to reflect that substitution;
3. Defendant “Reckitt Benckiser LLC” is dismissed without prejudice and will be replaced by defendant “RB Health (US) LLC” and the caption in this action shall be amended to reflect that substitution;
4. This Court stays any served Defendant’s deadline to answer, move, or otherwise plead in response to the Complaint, or any subsequently filed amended complaint, until further order of this Court or any Court to which the JPML assigns the Related Actions;

- 1 5. Because this case has been submitted to the JPML as a related case, the Court will receive
2 notice from the JPML if an MDL is formed. If the JPML denies the motion to form an MDL,
3 the Parties will meet and confer within 14 days of the JPML's ruling and prepare a joint status
4 report for the Court;
- 5 6. The parties' entry into this stipulation does not constitute a waiver of any jurisdictional
6 defenses that may be available under Rule 12 of the Federal Rules of Civil Procedure, including
7 personal jurisdiction, a waiver of any defenses under Rule 8 of the Federal Rules of Civil
8 Procedure, or a waiver of any other statutory or common law defenses that may be available
9 to any Defendant in this action, the Related Actions, or both. Defendants expressly reserve
10 their rights to raise any such defenses in response to any operative or amended complaint that
11 may be filed relating to this action.
- 12 7. The parties' entry into this stipulation does not prevent Plaintiffs from further amending their
13 complaint, if they deem it necessary to do so.

DATED: October 2, 2023

Respectfully submitted,

/s/ Christopher R. Rodriguez

Christopher R. Rodriguez (SBN 212274)

Andrew D. Bluth (SBN 232387)

SINGLETON SCHREIBER, LLP

1414 K Street, Suite 470

Sacramento, California 95814

Tel: (619) 333-7479

crodriguez@singletonschreiber.com

abluth@singletonschreiber.com

Attorneys for Plaintiffs

DATED: October 2, 2023

Respectfully submitted,

/s/ Amy S. Heath

Amy S. Heath (SBN 312516)

COVINGTON & BURLING LLP

Salesforce Tower

415 Mission Street, Suite 5400

San Francisco, CA 94105-2533

Telephone: (415) 591-6000

ah Heath@cov.com

Attorney for Defendant The Procter & Gamble Company

/s/ Robyn E. Bladow

Robyn E. Bladow (SBN 205189)

KIRKLAND & ELLIS LLP

555 S. Flower Street

Los Angeles, CA 90071

Tel: (213) 680-8400

robyn.bladow@kirkland.com

Attorneys for GlaxoSmithKline Consumer Healthcare Holdings (US) LLC (incorrectly sued as "GlaxoSmithKline LLC")

/s/ Amy J. Laurendeau

Amy J. Laurendeau (SBN 198321)

O'MELVENY & MYERS LLP

610 Newport Center Drive, 17th Fl.

Newport Beach, CA 92660

Telephone: (949) 823-6900

Facsimile: (949) 823-6994

alaurendeau@omm.com

Hannah Y. Chanoine (SBN 4380622)
(*Pro Hac Forthcoming*)

O'MELVENY & MYERS LLP

Times Square Tower

7 Times Square

New York, NY 10036

Tel: (212) 326-2000

Facsimile: (212) 326-2061

Attorneys for Johnson & Johnson Consumer Inc. (incorrectly sued as "Johnson & Johnson Consumer Companies, Inc.")

/s/ Vassi Iliadis

Vassi Iliadis (Bar No. 296382)

HOGAN LOVELLS US LLP

1999 Avenue of the Stars, Suite 1400

Los Angeles, California 90067

Telephone: (310) 785-4600

Facsimile: (310) 785-4601

Vassi.iliadis@hoganlovells.com

Lauren S. Colton (*Pro Hac Forthcoming*)

HOGAN LOVELLS US LLP

100 International Drive, Suite 2000

Baltimore, MD 21202

Telephone: (410) 659-2733

Facsimile: (410) 659-2701

Lauren.colton@hoganlovells.com

Attorneys for Defendant RB Health (US) LLC (incorrectly sued as "Reckitt Benckiser LLC")

/s/ Kevin S. Asfour
Kevin S. Asfour (#228993)
kevin.asfour@klgates.com
K&L GATES LLP
10100 Santa Monica Blvd., 8th Floor
Los Angeles, CA 90067
Telephone: +1 310 552 5000
Facsimile: +1 310 558 5001

Attorney for Defendant Amazon.com, Inc.

/s/ Christopher M. Young
Christopher M. Young (Bar No. 163319)
christopher.young@dlapiper.com
DLA PIPER LLP (US)
4365 Executive Drive, Suite 1100
San Diego, CA 92121
Telephone: +1 619 699 4748
Facsimile: +1 619 764 6748

Attorneys for Bayer HealthCare LLC


/s/ Amanda L. Groves
Amanda L Groves
WINSTON & STRAWN LLP
333 S. Grand Avenue
Los Angeles, CA 90071
(213) 615-1851
Email: agroves@winston.com

Jeff Wilkerson
WINSTON & STRAWN LLP
300 S. Tryon Street, 16th Floor
Charlotte, NC 28202
(704) 350-7714
Email: jwilkerson@winston.com

*Attorneys for Defendant Albertsons
Companies Inc,*

IT IS SO ORDERED.

DATED: October 3, 2023


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE